

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FARLYN BOWEN, III	§	
	§	
Plaintiff	§	
	§	
VS.	§	CIVIL ACTION NO. 5:21-cv-1076
	§	
WELLS FARGO BANK, LTD.,	§	
WELLS FARGO BANK, NA,	§	
WELLS FARGO & COMPANY, AND	§	
NCR CORPORATION	§	
Defendants	§	Jury Requested

**DEFENDANTS WELLS FARGO BANK, LTD., WELLS FARGO BANK, N.A. AND WELLS
FARGO & COMPANY'S NOTICE OF REMOVAL**

Defendants, Wells Fargo Bank, Ltd., Wells Fargo Bank, N.A., and Wells Fargo & Company (hereinafter referred to as "Defendants Wells Fargo") file their Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446 and states as follows:

1. Plaintiff commenced a civil action in the 73rd District Court of Bexar County, Texas on August 30, 2021, which is assigned Cause No. 2021CI17893, under the caption *Farlyn Bowen, III v. Wells Fargo Bank, LTD., Wells Fargo Bank, N.A., Wells Fargo & Company, and NCR Corporation*. This case involves an injury that occurred on or about August 31, 2019. Defendants Wells Fargo, was served on or about October 4, 2021. Defendants Wells Fargo have removed the matter within thirty days of the date upon which service was completed. Copies of all pleadings, as filed with the 73rd District Court of Bexar County, Texas, are attached hereto as Exhibit 2. There have been no further known proceedings in Cause No. 2021CI17893.

2. The above-described action is a civil action over which the United States District Court, for the Western District of Texas, San Antonio Division, has original jurisdiction pursuant to 28 U.S.C. § 1332 on the grounds that there is diversity of citizenship between the parties, and the amount in controversy exceeds Seventy-Five Thousand and No/100 Dollars (\$75,000.00) exclusive of interest and costs. One year has not passed since this matter was filed in District Court on August 30, 2021. Specifically, Plaintiff resides in and is a domiciliary of of Bexar County, Texas.

3. Plaintiff's Original Petition filed in the State Court action, shows on its face that Defendants Wells Fargo Bank, LTD., Wells Fargo & Company, and Wells Fargo Bank, N.A., are non-resident corporations doing business in Texas and may be served through Texas Secretary of State, Statutory Filings Division, 1019 Brazos, Room 105, Austin, Texas 78701. For purposes of diversity jurisdiction, national banks are deemed citizens of the States in which they are respectively located. 28 U.S.C. § 1348. A national bank is a citizen of the state where its main office is located as set forth in its articles of association. Wachovia Bank v. Schmidt, 546 U.S. 303, 307 (2006). Defendant Wells Fargo Bank, N.A., designates in its Articles of Association the location of its main office City of Sioux Falls, County of Minnehaha, State of South Dakota. Defendant Wells Fargo Bank, N.A.'s principal place of business is San Francisco, California. Defendant Wells Fargo Bank, N.A. is now and was at the time this action was commenced a citizen of the State of South Dakota and the State of California. Defendant Wells Fargo & Company is incorporated in the State of Delaware. Defendant Wells Fargo & Company's principal place of business is San Francisco, California. Defendant Wells Fargo & Company is now and was at the time this action was commenced a citizen of the State of Delaware and State of California. Defendant Wells

Fargo Bank, LTD., is a non-entity. See Plaintiff's Original Petition, attached hereto among the pleadings filed in the District Court, at Exhibit 2.

4. Plaintiff's Original Petition filed in the State Court action, shows on its face that Defendant NCR Corporation is a foreign corporation doing business in Texas and may be served through Texas Secretary of State, Statutory Filings Division, 1019 Brazos, Room 105, Austin, Texas 78701. Defendant NCR Corporation is incorporated in the State of Maryland. Defendant NCR Corporation's principal place of business is Atlanta, Georgia. Defendant NCR Corporation is now and was at the time this action was commenced a citizen of the State of Maryland and State of Georgia. See Plaintiff's Original Petition, attached hereto among the pleadings filed in the District Court, at Exhibit 2.

5. Plaintiff has pled for monetary relief that is greater than \$250,000.00 but less than \$1,000,000.00. See Plaintiff's Original Petition, attached hereto among the pleadings filed in the District Court, at Exhibit 2. Thus, the Plaintiff has indicated that he has valued his claim and the claim is in excess of \$75,000.00.

6. The above-described action is one which may be removed to this Court by Defendant Wells Fargo Bank, N.A., pursuant to the provisions of 28 U.S.C. § 1441 sub. (b). Defendant Wells Fargo Bank, N.A., was first served with Plaintiff's Original Petition, which was filed on August 30, 2021 and therefore, this Notice of Removal is timely filed in accordance with 28 U.S.C. § 1446(b)(3).

7. This removal is being filed within 30 days of the date upon which it became removable and within one year of the date it was filed.

8. Defendant Wells Fargo Bank, N.A., has prepared and will file Notice of this Removal with the State Court and has prepared and served Notice of this Removal on

counsel for Plaintiff in this action.

9. In filing this Notice of Removal, Defendant Wells Fargo Bank, N.A., respectfully reserves the right to present and rely upon all defenses to which it may be entitled including, without limitation, improper service of process, jurisdiction, venue, and any other procedural or substantive defenses.

10. Defendant NCR Corporation joins in this removal.

CONCLUSION AND PRAYER: Defendants Wells Fargo, herein respectfully request that the above-described civil action now pending against it in 73rd District Court of Bexar County, Texas, be removed from that Court to this United States District Court for the Western District of Texas, San Antonio Division.

Respectfully submitted,

/s/ Kristina Fernandez

Kristina Fernandez
Federal I.D. No. 23651
State Bar No. 24010021
Patrick Wolter
Federal I.D. No. 10261
State Bar No. 21873100
E-Service:
pwolter@dakpc.com
and
dakefilesvc@dakpc.com

ATTORNEYS-IN-CHARGE FOR
DEFENDANTS WELLS FARGO BANK, LTD,
WELLS FARGO BANK, N.A. AND WELLS FARGO &
COMPANY

OF COUNSEL:

DONNELL, KIESCHNICK, WOLTER & GAMEZ, P.C.
555 North Carancahua, Suite 400 – 78401-0817
Post Office Box 2624 – 78403-2624
Corpus Christi, Texas
Telephone No.: (361) 888-5551
Telecopier No.: (361) 880-5618

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been forwarded Electronically and/or by Telecopier, to the parties listed below, on this the 2nd day of November 2021.

Alisha D. Bond
Shumway Van
13750 San Pedro Avenue, Suite 810
San Antonio, Texas 78232
Telephone: (210) 503-2800
Telecopier: (210) 503-2888
E-Mail/E-Service: abond@shumwayvan.com

Wesson H. Tribble
Andrew D. VanVelzel
Tribble Ross
6371 Richmond Avenue
Houston, Texas 77057
Telephone: (713) 622-0444
Telecopier: (713) 622-0555
E-Mail/E-Service: wtribble@tribblelawfirm.com
and avanvelzel@tribblelawfirm.com

/s/ Kristina Fernandez

Kristina Fernandez